IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT Application of Bern	Group Art Unit: 3709
U.S. App'n Ser. No.: 10/520,111	Examiner: Wert, Joshua P.
Filed: December 17, 2004	Att. Docket No.: 62642-P10008

For: A GAME CONSOLE IN AN ELECTRONIC CARD GAME SYSTEM, AN
ELECTRONIC GAME CARD TO BE RECEIVED THEREBY, AND AN
ELECTRONIC CARD GAME SYSTEM

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22 August 2007

RESPONSE TO FINAL OFFICE ACTION MAILED 27 JUNE 2007

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the final Office Action mailed 27 June 2007, reconsideration and allowance of the subject application are respectfully requested.

Claims 17-24 and 26 are pending in the application.

The rejection of claims 17, 18, 21-24 and 26 under 35 U.S.C. § 102(b) as being anticipated by U.S. published appl. No. 2001/0039212 (Sawano) is respectfully traversed. The claimed invention is not anticipated by Sawano for the reasons of record and for the following reasons.

The Examiner argues on page 4 of the Office Action that:

> Applicant's argument with respect to claim 17-24 and 26 have been considered but are not persuasive because they are not in commensurate scope with the claims. While the argument is made for Sawano discloses source code being transferred and applicant's invention relates to source code being executed, the claim language of claims 17-24 and 26 recites merely a game console with 'a processor being configured for...' and does not recite the execution of any program, steps of code or any kind. Sawano discloses a game console with a process or that is configured for, and capable of, performing the steps recited in the claims presented. The examiner has taken in to consideration all of the applicants arguments but maintains claims 17-24 and 26 are rejected previously cited in Office Action mailed 4/4/07.

Applicants have argued that Sawano teaches how to transfer source code (data transfer between two game consoles) and the present application teaches how to execute source code (=playing a game between two game consoles). Applicants agree with the examiner that in the present application claim 17 does not explicitly recite that source code is executed, but more important and to be more precise, claim 17 recites "generating a game result". Applicants submit that "generating a game result" is a key difference between Sawano and the claimed invention.

The Examiner argues that "generating a game result" is equivalent to (Figure 12A; S56, using a transfer command to determine if the data is transferred and continuing a flow chart). Applicants respectfully submit that they are not the same.

In the present invention, the result of transfer of data from one unit to another unit is a either yes or no. In programming language it is common knowledge to set a flag to 1 or 0 where 1 means Yes: all the data was transferred (=Yes) or 0 which means No: some of the transferring of the data went wrong (=No). This means that the result of transferring data in data transfer is always digital. Transferring of data in the digital world is always exact and precise either the data bit was transferred or it was not.

Present claim 17 recites "reading first data..." and "receiving a second data..." and "generating a game result based on the first data and the second data". "Generating a game result" according to common knowledge could be anything. For example, it could be 103,11 ,45 ,288262, 45298, 0, 89276...etc. A game result is a consequence of a game that has been played and the result is mostly related to how successfully the game participant was in playing the game. A game result is descriptive and could vary for example from a large number, big win, to for example negative numbers: a loss.

Generating a game result could never be a direct consequence of a data transfer as described in Sawano. Therefore, Sawano is not relevant and should not be considered in the examination of the present application.

One could also make a comparison with a Pinball machine: In order to get the machine to work one need to download executable source code. During this process the "downloader" gets a reply either the executable source code was "downloaded successfully" or "no it was not downloaded successfully, please try again". He does

not get a game result like you got 532673 points when you downloaded the software. When the download was successfully completed, he can test the pin ball machine by playing a game on it and execute the source code and then he gets a game result which consists in this case of points that could be anything between 0 up several billions of points or higher. Downloading data to a pin ball machine and playing the pin ball machine (=generation of a game result) are two different things.

For these reasons, Sawano does not disclose all of the claimed features. Accordingly, withdrawal of the Section 102 rejection is respectfully requested.

The rejection of claims 19 and 20 under 35 U.S.C. § 103(a) as being unpatentable over Sawano in view of U.S. Patent No. 6,354,940 (Itou) is respectfully traversed. The claimed invention is not taught or suggested by the theoretical combination of Sawano and Itou for the following reasons.
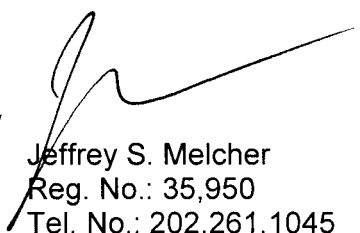
Applicants submit that Sawano and the present invention are two completely different processes for the reasons provided above. Again, one could say that Sawano shows a method "to transfer source code" and "not how it works when the source code is executed." In contrast, the present invention recites how the "source code is executed" as discussed above. Itou does not provide the deficiencies of Sawano. Thus, the combination of Itou and Sawano also only teaches to "transfer source code," which is different from the presently claimed invention. Accordingly, withdrawal of the Section 103 rejection is respectfully requested.

In view of all of the rejections and objections of record having been addressed, it is believed that the present application is in condition for allowance and Notice to that effect is respectfully requested.

Respectfully submitted,

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